

BEFORE

THE HON'BLE MR. JUSTICE P.G. AGARWAL

Heard Dr. B. Ahmed, learned counsel for the petitioner and Ms. R. Chakraborty, learned State counsel.

The case of the petitioners is that there is a Secretary and Assistant Secretary in Dhula Regional Physically Handicapped Development Association under Dhula Police Station in Darrang District of Assam.

The facts in brief are that while Police was executing Distress Warrant, issued by the S.D.J.M., Mangaldoi, in Misc. Case No. 160/03 U/S 125 Cr.P.C., the respondent Md. Muksed Ali appeared in the Police Station and produced two certificates allegedly issued by the petitioner No.1. The respondent in the above certificate, issued by said Badsha Ali, was shown as dead whereas Muksed Ali was a live and appeared in person before the Police Station. Thereafter, General Diary Entry No. 793 dated 29.06.06 was made at Dhula Police Station by the concerned Officer-in-Charge of the said Police Station and an enquiry was initiated to find out as to how a live person has been shown to be dead.

During enquiry, the certificates were examined by the Judicial Magistrate, Second Class, Darrang, Mangaldoi and thereafter, notice was issued to the petitioners to appear at the Police Station along with the original copy of the certificates. The petitioners did not comply with the directions and thereafter, two other notices were issued. In the mean time, Dhula Police Station registered a case No.88/05 U/S 405/506 IPC. The petitioners were granted bail by the Sessions Judge, Mangaldoi with the condition there in that they will not leave the Police Station without informing the Inspector of Police. The petitioners remained absent and absconded in spite of receipt of notice and thereafter, another notice was sent to them on 3.7.06. In this writ petition, the petitioners have prayed for quashing of the above notices as well as the quashing of the G.D. Entry and prayed for directing an enquiry against the respondent No.5, informant of the G.D. Entry.

So far the last two prayers are concerned we find that the petitioners' case is based on some weak footing. Being the Officer-in-Charge the respondent No.5 is required to make a G.D. Entry, when he found fraud has been committed to defeat the process and to deprive a person from getting maintenance as per the order of the court. There is no material whatsoever for quashing of the proceedings/G.D. Entry or for directing an enquiry against the respondent No.5.

So far the issuance of notices is concerned the petitioners prayed for quashing on the ground that these notices are in violation of the provision of the article 20(3) of the Constitution which provides that no person causing any offence shall be compelled to be witness against himself.

Vide the first notice dated 30.06.06 was issued directing the petitioner to produce original copy of the certificates. Vide second notice the petitioner was asked not to leave the Dhula Police Station elaka and to appear at the Police Station for taking specimen handwriting. The third notice was reminder as the petitioner, Abul Hussain refused to comply with the notice No.2.

In support of the submission the learned counsel has placed reliance on the decision of the Apex Court, in the case of Nandini Satpati vs. P.L. Dani, AIR 1978 SC 1025. The court considered the question of the examination of the case during investigation and laid down some principles. We find that there is no allegation whatsoever in that respect.

The learned counsel for the petitioner has also placed reliance on the decision of the Apex Court in the case of V.S. Kuttan Pillai vs. Ramakrishnan, AIR 1980 SC 185. The Apex Court held that in a criminal case principle of process, general search or inspection of seized documents and any other documents in the possession of the accused is not violative of the provision of the article 20(3) of the Constitution. This holds that not only general search but even an inspection of place and seizure of the documents or things considered necessary or desirable for the purpose of investigation can be made. So far the giving of specimen handwriting is concerned the court holds that it does not amount to witness against himself (State of UP vs. Boota Singh, 1978 SC 1770).

In view of the above, we hold that the petitioner is not entitled to get any relief and the writ petition has no merit.

The writ petition is accordingly dismissed.